

EXHIBIT 2

In the Matter Of:

FREEMAN v

DEEBS-ELKENANEY

PATRICK JUOLA, PH.D.

September 26, 2023



1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 LYNNE FREEMAN, an individual,

5 Plaintiff,

6 vs. Civil Action No.
7 1:22-cv-02435-LLS-SN

8 TRACY DEEBS-ELKENANEY P/K/A
9 TRACY WOLFF, an individual,
10 EMILY SYLVAN KIM, an individual,
11 PROSPECT AGENCY, LLC, a New Jersey
12 Limited Liability Company, ENTANGLED
PUBLISHING, LLC, a Delaware Limited
Liability Company, HOLTZBRINCK PUBLISHERS,
LLC D/B/A MACMILLAN, a New York Limited
Liability Company, and UNIVERSAL STUDIOS,
LLC, a Delaware Limited Liability Company,

13 Defendants.
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15
16 REMOTE VIDEOTAPED DEPOSITION OF

17 DR. PATRICK JUOLA, PH.D.
18

19 Tuesday, September 26, 2023

20 12:57 p.m. (EDT)
21

22
23 Reported By:

24 Joan Ferrara, RMR, FCRR

25 Job No. 2023-911534

September 26, 2023

12:57 a.m. (EDT)

Videotaped Deposition of DR. PATRICK
JUOLA, PH.D., held remotely via Zoom,
before Joan Ferrara, a Registered Merit
Reporter, Federal Certified Realtime
Reporter and Notary Public.

REMOTE APPEARANCES:

ON BEHALF OF PLAINTIFF:

DONIGER BURROUGHS

603 Rose Avenue

Venice, California 90291

BY: STEPHEN DONIGER, ESQ.

ON BEHALF OF PLAINTIFF:

CSREEDER

11766 Wilshire Boulevard

Suite 1470

Los Angeles, California 90025

BY: MARK PASSIN, ESQ.

ON BEHALF OF PROSPECT AGENCY and EMILY

SYLVAN KIM:

KLARIS LAW

29 Little West 12th Street

New York, New York 10014

BY: LANCE KOONCE, ESQ.

REMOTE APPEARANCES: (Continued)

ON BEHALF OF TRACY DEEBS-ELKENANEY P/K/A
TRACY WOLFF, ENTANGLED PUBLISHING, LLC,
HOLTZBRINCK PUBLISHERS, LLC d/b/a MACMILLAN
and UNIVERSAL CITY STUDIOS LLC:
COWAN DEBAETS ABRAHAMS & SHEPPARD

41 Madison Avenue

37th Floor

New York, New York 10010

BY: BENJAMIN HALPERIN, ESQ.

ALSO PRESENT:

Adrian Beltran, Videographer

Malcolm Coulthard

1 P. JUOLA

2 million-dollar smile means that the smile
3 of his is worth, in some abstract sense, a
4 million dollars, so it is still
5 composition.

6 Q Would you agree that idioms tend
7 to be common phrases?

8 A Yes, I would.

9 Q An idiom is not the same thing
10 as a common stereotyped phrase, but they
11 tend to overlap, those two?

12 A They tend to overlap. Not all
13 stereotyped phrases are idioms, but many
14 idioms are stereotyped -- are common
15 stereotyped phrases.

16 Q So would you consider
17 "million-dollar smile" to be a common
18 stereotyped phrase?

19 MR. DONIGER: Vague and
20 ambiguous. Calls for speculation.

21 A Can we separate the question?

22 Q I'll just -- this was a
23 standalone question. It was just, would
24 you consider the phrase "million-dollar
25 smile" to be a common stereotyped phrase?

1 P. JUOLA

2 A No.

3 Q Why not?

4 A I don't think it's a stereotyped
5 phrase, and it occurred only -- and it
6 occurred only three -- only three thousand
7 and change times in the hundreds of
8 millions of Google pages that have been
9 things.

10 So if you assume that it occurs
11 three times -- I'm sorry, did I say
12 hundreds of millions or hundreds of
13 billions?

14 Q You said, "hundreds of
15 millions," but if you want to correct it,
16 you can.

17 A Yes, hundreds of billions I
18 believe is a more accurate estimate of
19 Google's size.

20 So if something occurs only
21 three thousand times in a billion
22 instances, that is literally a three in a
23 million. And I don't think I can say three
24 in a million is common.

25 Q So just to clarify, I think the

1 P. JUOLA

2 A Uh-huh, yes, that is correct.

3 Q We're going to talk about those,
4 but first, tell me what is Google Books
5 Ngrams?

6 A The Google Books project was a
7 project where Google was attempting to
8 digitize the content of the world's
9 libraries, essentially. Every book to
10 which they could get access, they digitized
11 and they make available through the Google
12 Books interface.

13 As a lawyer and as a copyright
14 lawyer, you are probably familiar with the
15 Google Books copyright case, which they
16 attempted to establish that they could
17 violate copyright on the orphan books
18 because there was no one to seek permission
19 from.

20 They eventually managed to
21 complete 15 million books, and so the text
22 of 15 million books are available on the
23 Google Books Ngram and they also -- I'm
24 sorry, on the Google Books website. And
25 the Ngram viewer allows you to search for

1 P. JUOLA

2 any sequence of five or fewer words and see
3 how often it appears by year.

4 Q Do you know who created the
5 Google Books Ngram's corpus?

6 A It was a huge team. The nominal
7 author is Jean-Baptiste. Jean-Baptiste
8 Camps, I think.

9 Q Jean-Baptiste Michel,
10 M-I-C-H-E-L?

11 A Oh, yes.

12 Q What is Google Books Ngrams
13 typically used for?

14 A Can't say. I'm not typical.

15 MR. DONIGER: Object as calling
16 for speculation. Lacking foundation.
17 BY MR. HALPERIN:

18 Q Would you say one of the core
19 uses of Google Books Ngrams is to
20 investigate language trends over time?

21 MR. DONIGER: Calls for
22 speculation.

23 A That is certainly a common use.

24 Q Do you think that is the most
25 common use of it, to analyze language